



House of Representatives

File No. 756

General Assembly

January Session, 2007

(Reprint of File No. 371)

Substitute House Bill No. 7121
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 4, 2007

AN ACT CONCERNING THE AQUIFER PROTECTION AREA PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-7d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) In all matters wherein a formal petition, application, request or
4 appeal must be submitted to a zoning commission, planning and
5 zoning commission or zoning board of appeals under this chapter, a
6 planning commission under chapter 126 or an inland wetlands agency
7 under chapter 440 or an aquifer protection agency under chapter 446i
8 and a hearing is required or otherwise held on such petition,
9 application, request or appeal, such hearing shall commence within
10 sixty-five days after receipt of such petition, application, request or
11 appeal and shall be completed within thirty-five days after such
12 hearing commences, unless a shorter period of time is required under
13 this chapter, chapter 126, [or] chapter 440 or chapter 446i. Notice of the
14 hearing shall be published in a newspaper having a general circulation
15 in such municipality where the land that is the subject of the hearing is

16 located at least twice, at intervals of not less than two days, the first not
17 more than fifteen days or less than ten days and the last not less than
18 two days before the date set for the hearing. In addition to such notice,
19 such commission, board or agency may, by regulation, provide for
20 additional notice. Such regulations shall include provisions that the
21 notice be mailed to persons who own land that is adjacent to the land
22 that is the subject of the hearing or be provided by posting a sign on
23 the land that is the subject of the hearing, or both. For purposes of such
24 additional notice, (1) proof of mailing shall be evidenced by a
25 certificate of mailing, and (2) the person who owns land shall be the
26 owner indicated on the property tax map or on the last-completed
27 grand list as of the date such notice is mailed. All applications and
28 maps and documents relating thereto shall be open for public
29 inspection. At such hearing, any person or persons may appear and be
30 heard and may be represented by agent or by attorney. All decisions
31 on such matters shall be rendered [within] not later than sixty-five
32 days after completion of such hearing, unless a shorter period of time
33 is required under this chapter, chapter 126, [or] chapter 440 or chapter
34 446i. The petitioner or applicant may consent to one or more
35 extensions of any period specified in this subsection, provided the total
36 extension of all such periods shall not be for longer than sixty-five
37 days, or may withdraw such petition, application, request or appeal.

38 (b) Notwithstanding the provisions of subsection (a) of this section,
39 whenever the approval of a site plan is the only requirement to be met
40 or remaining to be met under the zoning regulations for any building,
41 use or structure, a decision on an application for approval of such site
42 plan shall be rendered [within] not later than sixty-five days after
43 receipt of such site plan. Whenever a decision is to be made on an
44 application for subdivision approval under chapter 126 on which no
45 hearing is held, such decision shall be rendered [within] not later than
46 sixty-five days after receipt of such application. Whenever a decision is
47 to be made on an inland wetlands and watercourses application under
48 chapter 440 on which no hearing is held, such decision shall be
49 rendered [within] not later than sixty-five days after receipt of such

50 application. Whenever a decision is to be made on an aquifer
51 protection area application under chapter 446i on which no hearing is
52 held, such decision shall be rendered not later than sixty-five days
53 after receipt of such application. The applicant may consent to one or
54 more extensions of such period, provided the total period of any such
55 extension or extensions shall not exceed sixty-five days or may
56 withdraw such plan or application.

57 (c) For purposes of subsection (a) or (b) of this section and section 7-
58 246a, the date of receipt of a petition, application, request or appeal
59 shall be the day of the next regularly scheduled meeting of such
60 commission, board or agency, immediately following the day of
61 submission to such commission, board or agency or its agent of such
62 petition, application, request or appeal or thirty-five days after such
63 submission, whichever is sooner. If the commission, board or agency
64 does not maintain an office with regular office hours, the office of the
65 clerk of the municipality shall act as the agent of such commission,
66 board or agency for the receipt of any petition, application, request or
67 appeal.

68 (d) The provisions of subsection (a) of this section shall not apply to
69 any action initiated by any zoning commission, planning commission
70 or planning and zoning commission regarding adoption or change of
71 any zoning regulation or boundary or any subdivision regulation.

72 (e) Notwithstanding the provisions of this section, if an application
73 involves an activity regulated pursuant to sections 22a-36 to 22a-45,
74 inclusive, and the time for a decision by a zoning commission or
75 planning and zoning commission established pursuant to this section
76 would elapse prior to the thirty-fifth day after a decision by the inland
77 wetlands agency, the time period for a decision shall be extended to
78 thirty-five days after the decision of such agency. The provisions of
79 this subsection shall not be construed to apply to any extension
80 consented to by an applicant or petitioner.

81 (f) The zoning commission, planning commission, zoning and

82 planning commission, zoning board of appeals, [or] inland wetlands
83 agency or aquifer protection agency shall notify the clerk of any
84 adjoining municipality of the pendency of any application, petition,
85 appeal, request or plan concerning any project on any site in which: (1)
86 Any portion of the property affected by a decision of such commission,
87 board or agency is within five hundred feet of the boundary of the
88 adjoining municipality; (2) a significant portion of the traffic to the
89 completed project on the site will use streets within the adjoining
90 municipality to enter or exit the site; (3) a significant portion of the
91 sewer or water drainage from the project on the site will flow through
92 and significantly impact the drainage or sewerage system within the
93 adjoining municipality; or (4) water runoff from the improved site will
94 impact streets or other municipal or private property within the
95 adjoining municipality. Such notice shall be made by certified mail,
96 return receipt requested, and shall be mailed within seven days of the
97 date of receipt of the application, petition, request or plan. Such
98 adjoining municipality may, through a representative, appear and be
99 heard at any hearing on any such application, petition, appeal, request
100 or plan.

101 (g) (1) Any zoning commission, planning commission or planning
102 and zoning commission initiating any action regarding adoption or
103 change of any zoning regulation or boundary or any subdivision
104 regulation or regarding the preparation or amendment of the plan of
105 conservation and development shall provide notice of such action in
106 accordance with this subsection in addition to any other notice
107 required under any provision of the general statutes.

108 (2) A zoning commission, planning commission or planning and
109 zoning commission shall establish a public notice registry of
110 landowners, electors and nonprofit organizations qualified as tax-
111 exempt organizations under the provisions of Section 501(c) of the
112 Internal Revenue Code of 1986, or any subsequent corresponding
113 internal revenue code of the United States, as from time to time
114 amended, requesting notice under this subsection. Each municipality
115 shall notify residents of such registry and the process for registering

116 for notice under this subsection. The zoning commission, planning
117 commission or planning and zoning commission shall place on such
118 registry the names and addresses of any such landowner, elector or
119 organization upon written request of such landowner, elector or
120 organization. A landowner, elector or organization may request such
121 notice be sent by mail or by electronic mail. The name and address of a
122 landowner, elector or organization who requests to be placed on the
123 public notice registry shall remain on such registry for a period of
124 three years after the establishment of such registry. Thereafter any land
125 owner, elector or organization may request to be placed on such
126 registry for additional periods of three years.

127 (3) Any notice under this subsection shall be mailed to all
128 landowners, electors and organizations in the public notice registry not
129 later than seven days prior to the commencement of the public hearing
130 on such action, if feasible. Such notice may be mailed by electronic
131 mail if the zoning commission, planning commission or planning and
132 zoning commission or the municipality has an electronic mail service
133 provider.

134 (4) No zoning commission, planning commission or planning and
135 zoning commission shall be civilly liable to any landowner, elector or
136 nonprofit organization requesting notice under this subsection with
137 respect to any act done or omitted in good faith or through a bona fide
138 error that occurred despite reasonable procedures maintained by the
139 zoning commission, planning commission or planning and zoning
140 commission to prevent such errors in complying with the provisions of
141 this section.

142 Sec. 2. Section 22a-354a of the general statutes is repealed and the
143 following is substituted in lieu thereof (*Effective October 1, 2007*):

144 As used in sections 22a-354b to 22a-354f, inclusive, "existing well
145 fields" means well fields in use by a public water supply system when
146 mapping is required pursuant to section 22a-354c, as amended by this
147 act, or 22a-354z, as amended by this act, and "potential well fields"

148 means those well fields identified as future sources of supply in the
149 water supply plan of the public water supply system approved
150 pursuant to section 25-32d.

151 Sec. 3. Section 22a-354c of the general statutes is repealed and the
152 following is substituted in lieu thereof (*Effective October 1, 2007*):

153 (a) On or before July 1, 1990, each public or private water company
154 serving one thousand or more persons shall map at level B all areas of
155 contribution and recharge areas for its existing wells located in
156 stratified drift aquifers. Not later than three years after the adoption by
157 the Commissioner of Environmental Protection of a model municipal
158 aquifer protection ordinance under section 22a-354l, each public and
159 private water company serving ten thousand or more persons shall
160 map at level A all areas of contribution and recharge areas for its
161 existing wells located in stratified drift aquifers. Any public or private
162 water company that creates a new well field serving one thousand or
163 more persons that has not been mapped previously as an existing well
164 shall map areas of contribution and recharge areas for the new well
165 field. Any map of such a new well field shall be submitted not later
166 than one year after the issuance of a diversion permit in accordance
167 with section 22a-368 at level B, and not later than three years after the
168 issuance of a diversion permit in accordance with section 22a-368 at
169 level A. The Commissioner of Environmental Protection may map at
170 level A and at level B all areas of contribution and recharge areas for
171 existing wells located in stratified drift aquifers that are used by any
172 public or private water company serving less than one thousand
173 persons.

174 (b) Each public or private water company serving ten thousand or
175 more persons shall map all areas of contribution and recharge areas for
176 potential wells that are located within stratified drift aquifers
177 identified as future sources of water supply to meet their needs in
178 accordance with the plan submitted pursuant to section 25-33h [, (1)] at
179 level B not more than two years after [approval of such plan and (2) at
180 level A four years after approval of such plan] the Commissioner of

181 Environmental Protection requests such mapping. The Commissioner
182 of Environmental Protection shall identify and make recommendations
183 for mapping, or shall map, all remaining significant areas of
184 contribution and recharge areas for potential wells located in stratified
185 drift aquifers not identified by a public or private water company as a
186 potential source of water supply within the region of an approved
187 plan. Mapping of any other area of contribution and recharge areas for
188 potential wells located in stratified drift aquifers by the commissioner
189 shall be completed at a time determined by the commissioner.

190 Sec. 4. Section 22a-354d of the general statutes is repealed and the
191 following is substituted in lieu thereof (*Effective October 1, 2007*):

192 The mapping of aquifers by a public or private water company at
193 level B and level A required pursuant to [section] sections 22a-354c, as
194 amended by this act, and 22a-354z, as amended by this act, shall not be
195 deemed to be complete unless approved by the Commissioner of
196 Environmental Protection.

197 Sec. 5. Section 22a-354o of the general statutes is repealed and the
198 following is substituted in lieu thereof (*Effective October 1, 2007*):

199 (a) Each municipality in which an aquifer protection area is located
200 shall authorize by ordinance an existing board or commission to act as
201 such agency not later than three months after adoption by the
202 commissioner of regulations for aquifer protection areas pursuant to
203 section 22a-354i and approval by the commissioner of mapping of
204 areas of contribution and recharge areas for wells located in stratified
205 drift aquifers in the municipality at level B pursuant to section 22a-
206 354d, as amended by this act. The ordinance authorizing the agency
207 shall determine the number of members and alternate members, the
208 length of their terms, the method of selection and removal and the
209 manner for filling vacancies. No member or alternate member of such
210 agency shall participate in any hearing or decision of such agency of
211 which he is a member upon any matter in which he is directly or
212 indirectly interested in a personal or financial sense. In the event of

213 disqualification, such fact shall be entered on the records of the agency
214 and replacement shall be made from alternate members of an alternate
215 to act as a member of such commission in the hearing and
216 determination of the particular matter or matters in which the
217 disqualification arose.

218 (b) Not more than six months after approval by the commissioner of
219 mapping at level A, pursuant to section 22a-354d, as amended by this
220 act, the aquifer protection agency of the municipality in which such
221 aquifer protection area is located shall adopt regulations for aquifer
222 protection.

223 (c) At least one member of the agency or staff of the agency shall be
224 a person who has completed the course in technical training
225 formulated by the commissioner pursuant to section 22a-354v. Failure
226 to have a member of the agency or staff with training shall not affect
227 the validity of any action of the agency and shall be grounds for
228 revocation of the authority of the agency under section 22a-354t.

229 (d) Any municipality may establish, by ordinance, a fine for
230 violations of regulations adopted pursuant to section 22a-354p, as
231 amended by this act, provided the amount of any such fine shall not be
232 more than one thousand dollars and further provided no such fine
233 may be levied against the state or any employee of the state acting
234 within the scope of his employment. Any police officer or other person
235 authorized by the chief executive officer of the municipality may issue
236 a citation to any person who commits such a violation. Any
237 municipality that adopts an ordinance pursuant to this subsection shall
238 also adopt a citation hearing procedure pursuant to section 7-152c.
239 Any fine collected by a municipality pursuant to this section shall be
240 deposited into the general fund of the municipality or in any special
241 fund designated by the municipality. The provisions of this subsection
242 shall not apply to agricultural uses, provided such uses are following
243 best management practices.

244 Sec. 6. Section 22a-354p of the general statutes is repealed and the

245 following is substituted in lieu thereof (*Effective October 1, 2007*):

246 (a) The aquifer protection agency authorized by section 22a-354o, as
247 amended by this act, shall, by regulation, provide for (1) the manner in
248 which the boundaries of aquifer protection areas shall be established
249 and amended or changed, (2) the form for an application to conduct
250 regulated activities within the area, (3) notice and publication
251 requirements, (4) criteria and procedures for the review of
252 applications, and (5) administration and enforcement.

253 (b) No regulations of an aquifer protection agency shall become
254 effective or be established until after a public hearing in relation
255 thereto is held by the agency at which parties in interest and citizens
256 shall have an opportunity to be heard. Notice of the time and place of
257 such hearing shall be published in the form of a legal advertisement,
258 appearing at least twice in a newspaper having a substantial
259 circulation in the municipality at intervals of not less than two days,
260 the first not more than twenty-five days nor less than fifteen days, and
261 the last not less than two days, before such hearing, and a copy of such
262 proposed regulation shall be filed in the office of the town, city or
263 borough clerk, as the case may be, in such municipality, for public
264 inspection at least ten days before such hearing, and may be published
265 in full in such paper. A copy of the notice and the proposed
266 regulations or amendments thereto shall be provided to the
267 Commissioner of Environmental Protection, the town clerk and any
268 affected water company at least thirty-five days before such hearing.
269 Such regulations may be from time to time amended, changed or
270 repealed after a public hearing in relation thereto is held by the agency
271 at which parties in interest and citizens shall have an opportunity to be
272 heard and for which notice shall be published in the manner specified
273 in this subsection. Regulations or changes therein shall become
274 effective at such time as is fixed by the agency, provided a copy of such
275 regulation or change shall be filed in the office of the town, city or
276 borough clerk, as the case may be. Whenever an agency makes a
277 change in regulations, it shall state upon its records the reason why the
278 change was made. All petitions submitted in writing and in a form

279 prescribed by the agency requesting a change in the regulations shall
280 be considered at a public hearing in the manner provided for
281 establishment of such regulations within ninety days after receipt of
282 such petition. The agency shall act upon the changes requested in the
283 petition within sixty days after the hearing. The petitioner may consent
284 to extension of the periods provided for a hearing and for adoption or
285 denial or may withdraw such petition.

286 (c) Pursuant to municipal regulations adopted under subsection (b)
287 of this section, no regulated activity shall be conducted within any
288 aquifer protection area without a permit. Any person proposing to
289 conduct or cause to be conducted a regulated activity within an aquifer
290 protection area shall file an application with the aquifer protection
291 agency of each municipality wherein the aquifer in question is located.
292 The application shall be in such form and contain such information as
293 the agency may prescribe. [The day of receipt of an application shall be
294 the day of the next regularly scheduled meeting of such agency,
295 immediately following the day of submission to such agency or its
296 agent of such application, provided such meeting is no earlier than
297 three business days after receipt, or within thirty-five days after such
298 submission, whichever is sooner. No later than sixty-five days after the
299 receipt of such application, the] The date of receipt of an application
300 shall be determined in accordance with the provisions of subsection (c)
301 of section 8-7d, as amended by this act. The agency may hold a public
302 hearing on such application. [Notice of the hearing shall be published
303 at least twice at intervals of not less than two days, the first not more
304 than fifteen days and not fewer than ten days, and the last not less than
305 two days before the date set for the hearing in a newspaper having a
306 general circulation in each town where the affected aquifer, or any part
307 thereof, is located. The] Such hearing shall be held in accordance with
308 the provisions of section 8-7d, as amended by this act. In addition to
309 the requirements of section 8-7d, as amended by this act, the agency
310 shall send to any affected water company, at least ten days before the
311 hearing, a copy of the notice by certified mail, return receipt requested.
312 [All applications, maps and documents relating thereto shall be open

313 for public inspection. At such hearing any person or persons may
314 appear and be heard. The hearing shall be completed within forty-five
315 days of its commencement. Action shall be taken on applications
316 within thirty-five days after the completion of a public hearing or in
317 the absence of a public hearing within sixty-five days from the date of
318 receipt of the application.]

319 (d) In granting, denying or limiting any permit for a regulated
320 activity the aquifer protection agency shall state upon the record the
321 reason for its decision. In granting a permit the agency may grant the
322 application as filed or grant it upon such terms, conditions, limitations
323 or modifications of the activity intended to carry out the policies of
324 section 22a-354g. No person shall conduct any regulated activity
325 within an aquifer protection area which requires zoning or subdivision
326 approval without first having obtained a valid certificate of zoning or
327 subdivision approval, special permit, special exception or variance, or
328 other documentation establishing that the proposal complies with the
329 zoning or subdivision requirements adopted by the municipality
330 pursuant to chapters 124 to 126, inclusive, or any special act. The
331 agency may suspend or revoke a permit if it finds, after giving notice
332 to the permittee of the facts or conduct which warrants the intended
333 action and after a hearing at which the permittee is given an
334 opportunity to show compliance with the requirements for retention of
335 the permit, that the applicant has not complied with the conditions or
336 limitations set forth in the permit or has exceeded the scope of the
337 work as set forth in the application. The agency shall send to any
338 affected water company a copy of the notice at least ten days before the
339 hearing by certified mail, return receipt requested. Any affected water
340 company may, through a representative, appear and be heard at any
341 such hearing. The applicant or permittee shall be notified of the
342 agency's decision by certified mail, return receipt requested, within
343 fifteen days of the date of the decision and the agency shall cause
344 notice of its order in issuance, denial, revocation or suspension of a
345 permit to be published in a newspaper having a general circulation in
346 the municipality in which the aquifer protection area is located.

347 (e) The aquifer protection agency may require a filing fee to be
348 deposited with the agency. The amount of such fee shall be sufficient
349 to cover the reasonable cost of reviewing and acting on applications
350 and petitions, including, but not limited to, the costs of certified
351 mailings, publications of notices and decisions, and monitoring
352 compliance with permit conditions, regulations adopted pursuant to
353 sections 19a-37, 22-6c, 22a-354c, as amended by this act, 22a-354e, 22a-
354 354g to 22a-354bb, inclusive, as amended by this act, 25-32d, 25-33h,
355 25-33n and subsection (a) of section 25-84, or agency orders.

356 (f) Any regulations adopted by an agency under this section shall
357 not be effective unless the Commissioner of Environmental Protection
358 determines that such regulations are reasonably related to the purpose
359 of groundwater protection and not inconsistent with the regulations
360 adopted pursuant to section 22a-354i. A regulation adopted by a
361 municipality shall not be deemed inconsistent if such regulation
362 establishes a greater level of protection. The commissioner shall
363 provide written notification to the agency of approval or the reasons
364 such regulations cannot be approved within sixty days of receipt by
365 the commissioner of the regulations adopted by the agency.

366 (g) (1) Notwithstanding any other provision of the general statutes,
367 the commissioner shall have sole authority to grant, deny, limit or
368 modify, in accordance with regulations adopted by him, a permit for
369 any regulated activity in an aquifer protection area proposed by (A)
370 any person to whom the commissioner has issued an individual permit
371 for the subject site under the national pollutant discharge elimination
372 system of the federal Clean Water Act (33 USC 1251 et seq.) or under
373 the state pollutant discharge elimination system pursuant to section
374 22a-430 or any person to whom the commissioner has issued a permit
375 for the subject site under the provisions of the federal Resource
376 Conservation and Recovery Act (42 USC 6901 et seq.) for a treatment,
377 storage or disposal facility, (B) any public service company, as defined
378 in section 16-1, providing gas, electric, pipeline, water or telephone
379 service, (C) any large quantity generator, as defined in regulations
380 adopted by the commissioner under section 22a-449, or (D) any state

381 department, agency or instrumentality, except any local or regional
382 board of education. Such authority may be exercised only after an
383 advisory decision on such permit has been rendered to the
384 commissioner by the aquifer protection agency of the municipality
385 within which such aquifer protection area is located or thirty-five days
386 after receipt by the commissioner of the application for such permit,
387 whichever occurs first. The commissioner shall provide prompt notice
388 of receipt of an application to the municipal aquifer protection agency.

389 (2) If the commissioner requires the submission of a registration or
390 other document under regulations adopted pursuant to section 22a-
391 354i, such submission shall be made to the commissioner by any
392 person to whom the commissioner has issued an individual permit
393 under the national pollutant discharge elimination system of the
394 federal Clean Water Act, or an individual permit under the state
395 pollutant discharge elimination system pursuant to section 22a-430, or
396 by any person to whom the commissioner has issued a permit under
397 the provisions of the federal Resource Conservation and Recovery Act
398 for a treatment, storage or disposal facility, or any public service
399 company, as defined in section 16-1, providing gas, electric, pipeline,
400 water or telephone service, or a large quantity generator, as defined in
401 regulations adopted by the commissioner under section 22a-449, or
402 any state department, agency or instrumentality, except any local or
403 regional board of education.

404 Sec. 7. Section 22a-354x of the general statutes is repealed and the
405 following is substituted in lieu thereof (*Effective October 1, 2007*):

406 (a) The Commissioner of Environmental Protection, in consultation
407 with the Commissioner of Public Health and water companies, shall
408 provide, within available appropriations, technical, coordinating and
409 research services to promote the effective administration of sections
410 19a-37, 22-6c, 22a-354c, as amended by this act, 22a-354e, 22a-354g to
411 22a-354bb, inclusive, as amended by this act, 25-32d, 25-33h and 25-33n
412 and subsection (a) of section 25-84 at the federal, state and local levels.

413 (b) The commissioner shall have the overall responsibility for
414 general supervision of the implementation of sections 19a-37, 22-6c,
415 22a-354c, as amended by this act, 22a-354e, 22a-354g to 22a-354bb,
416 inclusive, as amended by this act, 25-32d, 25-33h and 25-33n, and
417 subsection (a) of section 25-84 and shall monitor and evaluate the
418 activities of federal and state agencies and the activities of
419 municipalities to assure continuing, effective, coordinated and
420 consistent administration of the requirements and purposes of said
421 sections.

422 (c) The commissioner shall exercise all incidental powers, including,
423 but not limited to, the issuance of orders necessary to enforce rules and
424 regulations adopted in accordance with sections 22a-354i to 22a-354m,
425 inclusive, to carry out the purposes of sections 22a-354a to 22a-354bb,
426 inclusive, as amended by this act.

427 [(c)] (d) The commissioner shall prepare and submit to the General
428 Assembly and the Governor, on or before December first of each year,
429 a written report summarizing the activities of the department
430 concerning the development and implementation of sections 19a-37,
431 22-6c, 22a-354c, as amended by this act, 22a-354e, 22a-354g to 22a-
432 354bb, inclusive, as amended by this act, 25-32d, 25-33h and 25-33n
433 and subsection (a) of section 25-84 during the previous year. Such
434 report shall include, but not be limited to: (1) The department's
435 accomplishments and actions in achieving the goals and policies of
436 said sections including, but not limited to, coordination with other
437 state, regional, federal and municipal programs established to achieve
438 the purposes of said sections; (2) recommendations for any statutory or
439 regulatory amendments necessary to achieve such purposes; (3) a
440 summary of municipal and federal programs and actions which affect
441 aquifer protection areas; (4) recommendations for any programs or
442 plans to achieve such purposes; (5) any aspects of the program or said
443 sections which are proving difficult to accomplish, suggested reasons
444 for such difficulties and proposed solutions to such difficulties; (6) a
445 summary of the expenditure of federal and state funds under said
446 sections; and (7) a request for an appropriation of funds necessary to

447 match federal funds and provide continuing financial support for the
448 program. Such report shall comply with the provisions of section 46a-
449 78. On and after October 1, 1996, the report shall be submitted to the
450 Governor, to the joint standing committees of the General Assembly
451 having cognizance of matters relating to appropriations and budgets of
452 state agencies and relating to the environment and, upon request, to
453 any member of the General Assembly. A summary of the report shall
454 be submitted to each member of the General Assembly if the summary
455 is two pages or less and a notification of the report shall be submitted
456 to each member if the summary is more than two pages. Submission
457 shall be by mailing the report, summary or notification to the
458 legislative address of each member of the committee or the General
459 Assembly, as applicable.

460 Sec. 8. Section 22a-354z of the general statutes is repealed and the
461 following is substituted in lieu thereof (*Effective October 1, 2007*):

462 (a) Not later than three years after the adoption by the
463 Commissioner of Environmental Protection of a model municipal
464 aquifer protection ordinance under section 22a-354l, each public or
465 private water company serving at least one thousand persons but not
466 more than ten thousand persons shall map areas of contribution and
467 recharge areas at level A for each existing stratified drift well located
468 within its water supply area.

469 (b) Each public or private water supply company serving at least
470 one thousand but not more than ten thousand persons shall map areas
471 of contribution and recharge areas for all of the potential wells located
472 in stratified drift aquifers identified as future sources of water supply
473 in accordance with the plan submitted pursuant to section 25-33h at
474 level B not more than two years after [approval of the plan and at level
475 A not more than five years after approval] the Commissioner of
476 Environmental Protection requests such mapping.

477 (c) For the purpose of this section, any community water system
478 which is part of an existing water company but which is not physically

479 connected to such existing water company shall be considered a
480 separate water company for purposes of determining the number of
481 persons served by the existing water company's system and any of its
482 separate systems.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	8-7d
Sec. 2	<i>October 1, 2007</i>	22a-354a
Sec. 3	<i>October 1, 2007</i>	22a-354c
Sec. 4	<i>October 1, 2007</i>	22a-354d
Sec. 5	<i>October 1, 2007</i>	22a-354o
Sec. 6	<i>October 1, 2007</i>	22a-354p
Sec. 7	<i>October 1, 2007</i>	22a-354x
Sec. 8	<i>October 1, 2007</i>	22a-354z

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Environmental Protection	EQ - None	See Below	See Below

Note: EQ=Environmental Quality Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	Revenue Impact	Potential Minimal	Potential Minimal

Explanation

The changes made in the Department of Environmental Protection's aquifer protection program concerning hearings and decision schedules as well as clarification of mapping requirements are not anticipated to result in additional costs to the state or municipalities. Any increase in municipal revenue due to the establishment of fines for violating a municipality's aquifer protection regulations is anticipated to be minimal.

House "A" provides an exemption for agricultural uses and best management practices and is not anticipated to have a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 7121 (as amended by House "A")*****AN ACT CONCERNING THE AQUIFER PROTECTION AREA PROGRAM.****SUMMARY:**

This bill specifies when public and private water companies must submit maps of new well fields to the Department of Environmental Protection (DEP), amends aquifer protection agencies' hearing and decision schedules, authorizes municipalities to fine people who violate municipal aquifer regulations, and makes minor changes.

*House Amendment A states that provisions concerning the creation, imposition, and collection of municipal fines do not apply to certain agricultural uses.

EFFECTIVE DATE: October 1, 2007

§§ 2, 3, 4 & 8 — MAPPING REQUIREMENTS

An aquifer is a geologic formation from which wells and springs draw water. Aquifers have "contribution" areas, from which water flows to wells, and "recharge" areas, from which water flows to the contribution areas. The law requires public and private water companies to map contribution and recharge areas to two different standards: level B (initial mapping) and level A (more precise mapping). The bill requires a water company to map contribution and recharge areas for new, unmapped well fields serving 1,000 or more people to level B standards no later than one year, and to level A standards no later than three years, after receiving a water diversion permit.

By law, a water company serving more than 10,000 people (large

water company) must map to level B contribution and recharge areas for wells it identifies as future water supply sources two years after the public health commissioner approves its coordinated water system plan. The bill instead requires that such a company map to level B standards not more than two years after the DEP commissioner requests such mapping. It applies the same requirements to water companies serving between 1,000 and 10,000 people (small water company). It eliminates requirements that both large and small water companies map to level A standards four years and five years, respectively, after approval of their water system plans. As under existing law, the DEP commissioner must approve the aquifer maps.

§§ 1 & 6 — HEARING AND NOTICE REQUIREMENTS

By law, an aquifer protection agency regulates certain activities that occur within aquifer boundaries (see below).

Current law sets deadline and notice requirements for applications to conduct these regulated activities in an aquifer protection area. The bill replaces these with the notice and hearing requirements the law applies to zoning commissions, planning and zoning commissions, zoning boards of appeals, and inland wetlands agencies. But it retains a requirement that the aquifer protection agency notify affected water companies of a hearing at least 10 days before it takes place. As under existing law, this notice must be sent by certified mail, return receipt requested.

By law, an aquifer protection agency may hold a public hearing on an application to conduct a regulated activity. If it does, the agency must hold the hearing no later than 65 days after receiving the application, complete it within 45 days, and act on the application no later than 35 days after the hearing ends. Under the bill, the agency has the same 65-day period from receiving the application to hold the hearing, but must complete it within 35 days and issue a decision no later than 65 days after the hearing ends. The bill therefore extends the period between the start of the hearing and release of a decision by 20 days.

By law, zoning commissions, zoning boards of appeals, planning and zoning commissions, and inland wetlands agencies must notify the clerks of adjoining towns about any applications, petitions, appeals, requests, or plans concerning projects within 500 feet of the adjoining town, or that would affect the adjoining town in certain other ways. The bill applies these requirements to aquifer protection agencies.

§ 5 — MUNICIPAL FINES

The bill authorizes a municipality to establish, by ordinance, fines of up to \$1,000 for violating its aquifer protection regulations. A police officer or other person authorized by the municipality's chief executive may issue a citation to anyone violating the regulations. A municipality that adopts such an ordinance must also adopt a hearing procedure. Any fines collected must be deposited in the municipality's general fund or a special fund it designates. But the fine cannot be imposed against the state or any state employee acting within the scope of his or her employment.

The bill specifies that establishment of this ordinance, imposition of fines, and issuance of citations do not apply to agricultural uses employing best management practices (see BACKGROUND). By law and regulation, any person engaged in agriculture on land in an aquifer protection area (1) whose annual gross sales from agricultural products during the preceding calendar year were at least \$2,500, and (2) who submits to DEP a farm resources management plan, is not conducting a regulated activity (CGS § 22a-354m and Conn. Agency Regs § 22a-354i-5 (c) (3)). Therefore, this bill appears to apply only to farmers with gross sales of less than \$2,500 during the preceding year, and perhaps to those that have not submitted such a plan.

§§ 6 & 7 — DEP COMMISSIONER'S AUTHORITY AND POWERS

By law, the DEP commissioner has sole authority to grant, deny, limit, or modify, according to DEP regulations, a permit for any regulated activity in an aquifer protection area proposed by anyone to whom she has issued an individual permit under the (1) National

Pollution Discharge Elimination System, (2) state pollution discharge system, or (3) Resource Conservation and Recovery Act for a treatment, storage, or disposal facility. The bill specifies that the individual permit must have been issued for the site proposed for the regulated activity.

It authorizes the commissioner to exercise all incidental powers to carry out the aquifer protection laws, including issuing orders necessary to enforce rules and regulations adopted under those laws.

BACKGROUND

Regulated Activities and Best Management Practices

By law, a regulated activity is any action, process, or condition which the DEP commissioner determines, by regulation, involves producing, handling, using, storing, or disposing of material that may pose a threat to groundwater in an aquifer protection area, including structures and appurtenances used in conjunction with the regulated activity. A best management practice is a practice, procedure, or facility designed to prevent, minimize, or control spills, leaks or other releases that pose a threat to groundwater (CGS § 22a-354h).

National Pollution Discharge Elimination System

The NPDES permit program controls water pollution by regulating point sources (pipes, ditches, and channels) that discharge pollutants into U.S. waters.

Resource Conservation and Recovery Act (RCRA)

RCRA regulates solid and hazardous wastes.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/19/2007)